

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:21-cv-00384

Robert Britt,
Plaintiff,

v.

Sheriff Larry Smith et al.,
Defendants.

ORDER


Plaintiff Robert Britt, an inmate of the Smith County Jail proceeding pro se, filed this civil-rights lawsuit against Smith County Sheriff Larry Smith, Smith County District Clerk Penny Clarkston, and the Smith County Board of Commissioners complaining of alleged deprivations of his constitutional rights. Plaintiff complained of the loss of legal property during his confinement in the jail and that Clarkston has been negligent in her duties to keep him notified about a tort claim which he says that he filed in July 2021. He also complained about the mail-processing system in the Smith County Jail and that he has not been provided with kosher food options.

Defendants filed a motion for summary judgment asserting that plaintiff failed to exhaust his administrative remedies. After review of the motion and summary judgment evidence, the magistrate judge issued a report recommending that the motion for summary judgment be granted as to Sheriff Smith and the board of commissioners but denied as to Clarkston. No objections have been filed to this report.

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Defendants' motion for

summary judgment (Doc. 26) is granted as to the defendants Sheriff Smith and the Smith County Board of Commissioners, and the claims against these defendants are dismissed without prejudice for failure to exhaust administrative remedies. The motion for summary judgment is denied as to defendant Penny Clarkston, who shall have 51 days from the date of entry of this order to file her motion for summary judgment on the merits as set out in Doc. 29.

So ordered by the court on October 5, 2022.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge